

**CALIFORNIA ENERGY COMMISSION**

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May 8, 2002

Robert E. Cochran II  
Business Development Manager  
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Oakland, CA 94612

**Re: Energy Commission Staff Response to Duke Avenal, LLC's Data Requests**

Mr. Cochran:

On April 8, 2002, Energy Commission staff ("staff") received the Avenal Energy Center Data Requests to Commission Staff issued by Duke Avenal, LLC ("applicant"). In these data requests, the applicant requested an explanation of the applicability of California Water Code sections 13550 and 13551, and State Water Resources Control Board Policy ("SWRCBR") 75-58. To the extent that these questions request information, staff has provided a response below.

Staff uses SWRCBR 75-58 as general policy guidance in its review of a proposed project's water use. This policy has been used as guidance by staff in all recent siting cases.

Staff uses Water Code section 13550 et seq, as it would any other law that may potentially apply to a proposed project. Since staff is still in the discovery and analysis phase of the review process, we have not made a final determination on the specific applicability of this section of the Water Code to this particular project. The Preliminary Staff Assessment will provide more clarification on staff's position.

In the Application for Certification (AFC) Duke Avenal analyzed the project's consistency with SWRCBR 75-58 policy and did not assert there that it did not apply.

To the extent that these questions request a discussion of staff's legal interpretation and analyses of the referenced statutes and policy, staff believes that such a discussion is best reserved for legal briefing at the end of the review process when all of the facts are in evidence, if the committee deems such a discussion necessary.

Lance Shaw  
Siting Project Manager

Cc: POS